Typology Of Urgent Reasons And Child's Best Interests In Marriage Dispensation At Indramayu Religious Court

Abd Aziz Tambunan[1], Abdul Rahman Hamid[2], Sanusi[3]
Universitas Negeri Jakarta[1,2,3]
Email: abdaziztambunan@unj.ac.id[1], Abdul_rahman@unj.ac.id[2], sanusi@unj.ac.id[3]

Abstract

Child marriage dispensation remains a crucial issue in Indonesian Islamic family law because it places judges between the legal restriction of minimum marriage age and the social realities faced by families. This article examines urgent reasons and the best interests of the child in marriage dispensation determinations at the Indramayu Religious Court. The study aims to identify the typology of urgent reasons constructed in judicial considerations and to assess the consistency of those considerations with Supreme Court Regulation Number 5 of 2019. This research uses a normative-empirical legal method with statutory, case, and content analysis approaches. The primary data consist of marriage dispensation determinations from the Indramayu Religious Court, supported by relevant regulations, literature, previous studies, and statistical data on dispensation cases. The findings show that urgent reasons are constructed through several patterns: pregnancy, intimate relationships between prospective spouses, fear of zinā and social shame, family approval, and economic readiness of the prospective husband. The study also finds that the implementation of Supreme Court Regulation Number 5 of 2019 is relatively consistent at the formal-procedural level, but still requires substantive strengthening, particularly regarding meaningful child participation, freedom from coercion, education, health, and alternatives to marriage. This article contributes to Islamic family law studies by emphasizing that urgent reasons must be controlled by the principle of the best interests of the child.

Keywords: *Urgent Reasons, Best Interests of the Child, Marriage Dispensation, Child Protection, Religious Court*

Introduction

Child marriage remains an important issue in family law in Indonesia because it touches on several interests simultaneously, namely religious interests, state law, child protection, and the social structure of the family.[1] Within the framework of national law, marriage is not only viewed as a civil relationship between a man and a woman, but also as a legal event that has consequences for family status, children's rights, parental responsibilities, and protection for vulnerable parties. Therefore, when marriage is

[1] Muhammad Joni and Zulchaina Z. Tanamas, *Aspek Hukum Perlindungan Anak Dalam Perspektif Konvensi Hak Anak* (Bandung: Citra Aditya Bakti, 1999), 83–85.

conducted by a child who has not yet reached the minimum age, the state is interested in ensuring that the legal process undertaken not only meets administrative requirements but also guaranties the actual protection of children's rights.

The change in the marriage age limit thru Law Number 16 of 2019 has become a significant point in the legal politics of child protection in Indonesia. The law equalizes the minimum marriage age for men and women to 19 years.[2] This change shows that the state is striving to reduce the vulnerability of children, especially girls, to the risk of early marriage. However, the provision still allows for marriage dispensation thru the court if there are very urgent reasons supported by sufficient evidence.[3] Thus, marriage dispensation places judges in an important position to assess whether the application submitted truly reflects the need for child protection or is merely a form of legitimizing social pressure, family relations, and emergency situations that may not necessarily favor the child.

The phenomenon of marriage dispensation at the Indramayu Religious Court shows that this matter is not an incidental legal event. Based on data from the Kinsatker Badilag collected by the author, the number of marriage dispensation cases at the Indramayu Religious Court has sharply increased following the change in the marriage age limit. In 2020, there were 761 cases filed; in 2021, there were 625 cases filed; in 2022, there were 572 cases filed; in 2023, there were 514 cases filed; in 2024, there were 343 cases filed; and in 2025, there were 342 cases filed. This data shows that although there has been a decline since 2020, the number of marriage dispensation cases at PA Indramayu remains at a level that requires academic and institutional attention.[4][5]

[2] Undang-undang Republik Indonesia No 16, "Undang-Undang Republik Indonesia No 16 Tahun 2019 Tentang Perubahan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," *Undang-Undang Republik Indonesia*, no. 006265 (2019): 2–6, https://peraturan.bpk.go.id/Home/Details/122740/uu-no-16-tahun-2019.

[3] Undang-undang Republik Indonesia No 16.

[4] "Pusat Data Perkara Peradilan Agama," 2026, https://pusatdata.badilag.net/perkara/Pencarian_smart/direktoriDataset_jenis/362.

[5] "Bank Data Perkara Peradilan Agama," accessed May 15, 2026, https://kinsatker.badilag.net/JenisPerkara/perkara_persatker_detail/362/49/2025.

Table.1

Recap of Marriage Dispensation Cases at the Indramayu Religious Court 2017–2025

Year	The Rest of Last Year	Case Entry	Total Case Load	Revoked	Divorce	Year-End Surplus
2017	29	297	326	8	294	0
2018	24	402	426	11	402	0
2019	13	299	312	8	266	38
2020	38	761	799	9	761	0
2021	29	625	654	6	646	0
2022	2	572	574	6	568	0
2023	0	514	514	10	495	9
2024	9	343	352	9	341	2
2025	1	342	343	11	330	2

Source: Kinsatker Badilag and public data processed by the author, 2026.

The data in Table 1 is used as a quantitative context to show the intensity of marriage dispensation cases at the Indramayu Religious Court. However, the data is not used to conclude the number of applications granted or rejected because the column on the case recap does not correspond to the granted verdict. Therefore, this article continues to place the analysis of the content of the decree as the main focus, while the case recap data is used to explain the urgency of the location and research object.

The quantitative data needs to be read carefully. The number of cases decided in the case recap is not always identical to those granted, because it may still include cases that were rejected, not accepted, dismissed, or struck out. More detailed data shows that in 2021 there were 646 applications granted and 6 withdrawn; in 2022 there were 568 applications granted and no rejections found; while in 2023 there were 495 applications granted and 10 withdrawn.[6] Thus, the approval rate for marriage dispensation applications at the

[6] Danielle Johanna, Panungkelani Samsoeri, and Nurkhayati Aida, "Analisis Penerapan Peraturan Mahkamah Agung RI (PERMA) Nomor 5 Tahun 2019 Tentang Pedoman Mengadili Permohonan Dispensasi

Indramayu Religious Court tends to be high, so the main issue is not only the number of applications received but also how judges construct legal considerations when accepting or rejecting the reasons presented by the applicants.

Normatively, the Supreme Court has issued Supreme Court Regulation Number 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications. This PERMA has been in effect since November 21, 2019, and serves as a guideline for judges in examining marriage dispensation applications.[7] The PERMA emphasizes that the examination of marriage dispensation cases must consider the principle of the best interests of the child, the right to life and development of the child, respect for the child's opinion, respect for human dignity, non-discrimination, gender equality, equality before the law, justice, utility, and legal certainty.[8] Therefore, the judge should not only consider the rejection from the Religious Affairs Office due to the age not yet reaching 19 years, but also need to assess the child's situation as a whole.

In practice, urgent reasons often serve as the main entry point in marriage dispensation applications. These reasons can include pregnancy, the close relationship between the prospective bride and groom, parental concerns about fornication, social pressure due to shame, or the belief that marriage is the quickest solution to resolve family issues. At this point, the legal issue becomes complex. Judges must distinguish between genuinely urgent reasons to protect the child and reasons that merely reproduce social pressure on the child. In other words, urgent reasons should not stand alone as the basis for granting, but must be tested against the principle of the best interest of the child.

The determination of marriage dispensation at the Indramayu Religious Court shows a pattern of considerations that can be read typologically. In the Decree Number 53/Pdt.P/2026/PA.IM, the judge stated that marriage dispensation is essentially a deviation from the marriage age limit provisions, so the judge needs to assess whether granting the

Kawin," *International NGO Forum for Indonesian Development (INFID)*, 2024, 22, https://infid.org/wp-content/uploads/2024/12/KERTAS-KERJA-KEBIJAKAN-Analisis-Penerapan-PERMA-52019-tentang-Dispensasi-Kawin.pdf.

[7] Mahkamah Agung, "Peraturan Mahkamah Agung Nomor 5 Tahun 2019 Tentang Pedoman Mengadili Perkara Permohonan Dispensasi Nikah," 2016, 1–23.

[8] Mahkamah Agung.

dispensation brings benefits or instead causes harm if the marriage is postponed. The ruling also states that PERMA Number 5 of 2019 requires judges to find facts regarding urgent reasons, consider the protection of children and the best interests of the child, and assess the biological, psychological, spiritual, and financial readiness of the prospective couple.[9]

Another pattern is evident in the Decree Number 66/Pdt.P/2026/PA.IM. In that case, the urgent reason was not based on pregnancy, but on the child's relationship with her prospective husband, which was deemed to be so close, having had sexual relations, and was feared to cause violations of customary norms, religious norms, and legal norms if the marriage were postponed. The judge then viewed the situation as one form of urgent reason and linked it to the concept of *maṣlaḥah* in Islam. On the other hand, in another ruling, the urgent reason was based on the fact of the child's or prospective wife's pregnancy, as seen in Ruling Number 15/Pdt.P/2026/PA.IM, which included laboratory test results showing that the prospective bride was eight weeks pregnant.[10]

Based on this trend, this research views that the issue of marriage dispensation at the Indramayu Religious Court does not only lie in the high number of cases but also in the structure of legal arguments used in the rulings. The judge's considerations need to be read thru several layers of analysis, namely the structure of the considerations, the construction of urgent reasons, the pattern of legal basis usage, and the presence of child protection indicators. Such analysis is important because the granting of marriage dispensation can have direct consequences on the child's future, particularly in aspects of education, reproductive health, child participation, power relations within the family, and the sustainability of children's rights after marriage.

Previous research has discussed marriage dispensation from various perspectives. Several studies highlight the changes in the marriage age limit and their implications for the increase in marriage dispensation requests following the enactment of Law Number 16 of 2019.[11] Another study places PERMA Number 5 of 2019 as an important instrument to

[9] "SIPP," accessed May 15, 2026, https://sipp.pa-indramayu.go.id/index.php/detil_perkara.
[10] "SIPP."
[11] Allika Fadia Tasya and Atik Winanti, "Dispensasi Perkawinan Anak Setelah Adanya Perma Nomor 5 Tahun 2019," *Wajah Hukum* 5, no. 1 (2021): 241, https://doi.org/10.33087/wjh.v5i1.333.

tighten the examination of marriage dispensation and guide judges to pay more attention to the best interests of the child.[12] Additionally, there is also a study that examines child marriage dispensation in Indramayu Regency by highlighting the implementation of PERMA Number 5 of 2019, judges' perspectives, and the child's situation in the marriage dispensation process.[13] These studies provide an important foundation, but still leave room to specifically examine how the urgent reasons are constructed in the judges' rulings and how these constructions are tested against the principle of the best interests of the child.

The novelty of this article lies in the mapping of the typology of urgent reasons in the determination of child marriage dispensation at the Indramayu Religious Court and its examination against the principle of the best interests of the child based on PERMA Number 5 of 2019. This article not only examines the number of cases or the legal basis used by judges but also places urgent reasons as an entry point to assess whether the judges' considerations have shifted from formal compliance to substantive child protection. Thus, this article is expected to enrich the study of Islamic family law, particularly in understanding the relationship between public interest, child protection, and religious court practices.

Based on the description, this article examines two issues. First, what is the typology of urgent reasons in the determination of child marriage dispensation at the Indramayu Religious Court? Second, how do judges' considerations in granting marriage dispensations reflect the principle of the best interests of the child based on PERMA Number 5 of 2019? These two questions are aimed at assessing whether the urgent reasons used in the determination of marriage dispensation have been adequately tested thru child protection indicators, particularly the best interests of the child, child participation, freedom from coercion or pressure, education, health, and alternatives to marriage.

[12] Muhamad Beni Kurniawan and Dinora Refiasari, "Penafsiran Makna 'Alasan Sangat Mendesak' Dalam Penolakan Permohonan Dispensasi Kawin," *Jurnal Yudisial* 15, no. 1 (2022): 83, https://doi.org/10.29123/jy.v15i1.508.

[13] Johanna, Samsoeri, and Aida, "Analisis Penerapan Peraturan Mahkamah Agung RI (PERMA) Nomor 5 Tahun 2019 Tentang Pedoman Mengadili Permohonan Dispensasi Kawin."

This research aims to analyze the typology of urgent reasons in the determination of child marriage dispensation at the Indramayu Religious Court and to assess the consistency of judges' considerations with the best interest of the child principle based on PERMA Number 5 of 2019.

Method

This research uses a normative-empirical legal research method with a regulatory approach, case approach, and content analysis of the marriage dispensation decree from the Indramayu Religious Court. The primary data for the research is sourced from the marriage dispensation rulings of the Indramayu Religious Court, while the supporting data is obtained from legislation, Islamic family law literature, case data, and previous research. The analysis was conducted qualitatively by identifying the structure of the judge's considerations, types of urgent reasons, patterns of legal basis usage, and indicators of child protection in each decree.[14][15] The unit of analysis in this article is 11 copies of marriage dispensation rulings from the Indramayu Religious Court for the years 2025–2026, selected purposively because they contain a variety of urgent reasons, including pregnancy, overly close relationships between prospective brides and grooms, and concerns about violations of socio-religious norms.

Discussion

1. Typology of Urgent Reasons in the Determination of Marriage Dispensation

The establishment of marriage dispensation is essentially an exception to the minimum age limit for marriage. Therefore, urgent reasons cannot be understood as ordinary reasons that are merely based on the will of the parents, the child's romantic relationship, or social concerns alone. Within the framework of Law Number 16 of 2019, marriage dispensation can only be granted if there are very urgent reasons accompanied by

[14] Peter Mahmud Marzuki, *Penelitian Hukum, Ed. Revisi* (Jakarta: Kencana, 2017), 133–36.
[15] Johnny Ibrahim, *Teori Dan Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia Publishing, 2006), 295–306.

sufficient supporting evidence.[16] PERMA Number 5 of 2019 then clarified that the examination of marriage dispensation must be directed toward the protection of children, including the best interests of the child, hearing the child's opinion, examining the presence or absence of coercion, and assessing the child's readiness to enter into marriage.[17]

Based on the investigation of marriage dispensation rulings at the Indramayu Religious Court, the urgent reasons submitted by the applicants can be categorized into several typologies. First, the urgent reason is due to the pregnancy of the child or prospective wife. Second, the urgent reason is that the relationship between the prospective bride and groom is already very close, and there is concern that it may lead to violations of religious or social norms. Third, the urgent reason is the concern about the occurrence of adultery, sin, or family disgrace. Fourth, the urgent reason related to the readiness of the prospective bride and the support of the family. This typology shows that urgent reasons do not always manifest in the same form of objective circumstances, but are constructed thru a combination of biological facts, social relations, religious norms, and family interests.

The first typology, namely pregnancy, appears to be the strongest reason in several rulings. In Ruling Number 15/Pdt.P/2026/PA.IM, the applicants stated that the marriage was very urgent because the relationship between the two prospective spouses was already very close and the applicant's child was eight weeks pregnant based on a certificate from the Karangampel Community Health Center. This decree shows that medical evidence of pregnancy is used as an important basis to strengthen the claim of the urgency of marriage.[18] A similar pattern is also evident in Decree Number 53/Pdt.P/2026/PA.IM, which states that the applicants' child was six weeks or one and a half months pregnant after having sexual relations with her prospective husband.[19]

[16] Undang-undang Republik Indonesia No 16, "Undang-Undang Republik Indonesia No 16 Tahun 2019 Tentang Perubahan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan."

[17] Mahkamah Agung, "Peraturan Mahkamah Agung Nomor 5 Tahun 2019 Tentang Pedoman Mengadili Perkara Permohonan Dispensasi Nikah."

[18] "SIPP."

[19] "SIPP."

Pregnancy in marriage dispensation cases is often positioned as a condition that creates legal and social urgency. From the applicant's side, pregnancy becomes a reason to avoid the birth of a child out of wedlock, to maintain the family's honor, and to prevent negative societal judgment. From the judge's perspective, pregnancy tends to be viewed as a condition that could cause greater harm if the marriage is delayed. However, academically, the state of being pregnant should not automatically be understood as a reason that always aligns with the best interests of the child. Pregnancy is indeed an important fact, but judges still need to assess whether child marriage truly serves as the best form of protection or if it merely adds to the burden of a child who is still in their developmental stage.

The second typology is a relationship that is considered too close, although it is not always accompanied by pregnancy. In Decision Number 6/Pdt.P/2026/PA.IM, the judge found that the applicants' child and her prospective husband had established a close, inseparable relationship, had engaged in sexual intercourse, but the prospective wife was not pregnant. The judge considered the situation as one of the urgent reasons because there was a concern that delaying the marriage would lead to violations of customary norms, religious norms, and legal norms. A similar pattern is seen in Decree Number 66/Pdt.P/2026/PA.IM, which also mentions a very close relationship, having had sexual intercourse, but the prospective wife is not pregnant.

In this second typology, the urgency is not built from a biological condition such as pregnancy, but from the assumption of moral and social risks. The judge considers a relationship that has become too close as a condition that has the potential to cause harm if it is not immediately ended thru marriage. On one hand, this consideration can be understood in a society that views relationships between men and women outside of marriage as a moral issue. However, on the other hand, such considerations need to be tested more rigorously because they can shift marriage dispensations into mechanisms for legalizing relationships that can actually still be addressed thru protective approaches, education, family counseling, or parental supervision.

The third typology is an urgent reason built on the concern of committing adultery, sin, disgrace, and social pressure. In several rulings, the petitioner's family stated that the marriage must be conducted immediately for the common good and to avoid sin or disgrace due to the actions of the two children. For example, Ruling Number 53/Pdt.P/2026/PA.IM mentions a family deliberation that concluded that the marriage needs to be conducted immediately to avoid sin or other disgrace. In Ruling Number 54/Pdt.P/2026/PA.IM, the judge also considered that delaying the marriage is feared to cause violations of customary norms, Islamic law, and the laws applicable in Indonesia.

The construction of urgent reasons based on the fear of adultery and disgrace shows the strong influence of socio-religious norms in marriage dispensation matters. In the perspective of Islamic law, preventing *mafsadat* is indeed an important principle. However, the application of this principle in child matters must be placed within the framework of *maqāṣid al-syarī'ah* as a whole, not only in the protection of lineage or religion but also in the protection of life, intellect, dignity, and the future of the child.[2021] Thus, the argument for public interest should not stop at preventing adultery, but must also be tested to see whether the marriage protects the child's health, education, psychological well-being, and freedom from family or environmental pressures.

The fourth typology is an urgent reason associated with the readiness of the prospective bride and groom and family support. In several rulings, the judge considered that the prospective husband had been working and had an income, both families approved the marriage, and the child expressed readiness to marry. For example, in Decision Number 66/Pdt.P/2026/PA.IM, the prospective husband is mentioned to work in a workshop with an income of Rp100,000.00 per day,[22] while both families have agreed to the marriage plan. In Decree Number 53/Pdt.P/2026/PA.IM, the prospective husband is mentioned to work as a

[20] Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: International Institute of Islamic Thought, 2008), 21–24.
[21] Ahmad Al-Raysuni, *Imam Al-Shatibi's Theory of the Higher Objectives and Intents of Islamic Law* (London: International Institute of Islamic Thought, 2005), 19–22.
[22] "SIPP."

farmer/gardener and own a grocery store business with an income of approximately Rp3,000,000.00 per month.[23]

The economic readiness of the prospective husband and family approval are indeed relevant, but neither is sufficient to assess the best interests of the child. The prospective husband's income only addresses a small part of the marriage issue, which is the aspect of financial support. Family approval is not always synonymous with the child's freedom. In marriage dispensation cases, children may find themselves in an unbalanced psychological situation, especially if pregnancy, fear, family pressure, or social shame have preceded the court proceedings. Therefore, the judge needs to distinguish between formal consent and the child's truly free will.

2. Structure of Judicial Considerations in the Determination of Marriage Dispensation

The structure of the judge's considerations in granting marriage dispensation at the Indramayu Religious Court tends to follow a relatively uniform pattern. First, the judge examines the absolute and relative jurisdiction of the court. Second, the judge assesses the legal standing of the applicant as the parent or guardian of the child for whom the dispensation is requested. Third, the judge ensures that there is a rejection from the Religious Affairs Office because the prospective bride or groom has not yet reached the age of 19. Fourth, the judge hears the statements of the applicant, the child, the prospective husband or wife, the parents of the prospective partner, and the witnesses. Fifth, the judge examines written evidence, including identity documents, the KUA rejection letter, diplomas or educational certificates, and proof of pregnancy if applicable. Sixth, the judge considers urgent reasons, benefits, harms, and child protection.[24]

The pattern indicates that formally, the judge has followed the examination framework required by PERMA Number 5 of 2019. For example, Decision Number 6/Pdt.P/2026/PA.IM contains a description of the administrative requirements for a

[23] "SIPP."

[24] Mahkamah Agung, "Peraturan Mahkamah Agung Nomor 5 Tahun 2019 Tentang Pedoman Mengadili Perkara Permohonan Dispensasi Nikah."

marriage dispensation application based on Article 5 paragraph (1) of PERMA Number 5 of 2019, including the application letter, identity of the parents/guardians, family card, identity of the child, identity of the prospective spouse, and the child's last diploma or a certificate of still being in school. The ruling also states that the judge advised the applicants to understand the risks of underage marriage and suggested that the marriage be postponed until the child is of legal age.

The provision of advice by the judge is an important part of the marriage dispensation examination. The advice shows that the court does not only function as a grantor of permission but also as an institution that reminds the parties about the risks of child marriage. However, the effectiveness of the judge's advice still needs to be tested. If the advice is only recorded formally but not followed by an in-depth examination of the child's willingness, continuation of education, health risks, and alternatives to marriage, then the advice is not sufficient to demonstrate that child protection has substantively worked.

In the legal consideration section, judges generally place marriage dispensation as an exception to the marriage age limit. Therefore, the judge stated that it is necessary to assess whether the dispensation brings benefits or instead causes harm if the marriage is postponed. This pattern is evident in Ruling Number 53/Pdt.P/2026/PA.IM and Ruling Number 66/Pdt.P/2026/PA.IM. Both rulings state that judges must examine the benefits and harms of granting the dispensation, as well as consider the aspects of child protection and the best interests of the child.

Such a structure of consideration reveals the presence of two layers of argumentation. The first layer is the argumentation of positive law, namely the marriage age limit, the KUA rejection letter, administrative requirements, and the PERMA Number 5 of 2019 guidelines. The second layer is the argumentation of values, namely *maṣlaḥah*, *maḍarrah*, fear of adultery, social stigma, child readiness, and protection of offspring. The combination of these two layers of argumentation has become a hallmark of marriage

dispensation rulings in the religious court environment, as judges do not only read written norms but also consider Islamic legal values and the social realities of families.[25][26]

However, the combination of positive law and arguments for the common good must be maintained so as not to obscure the position of the child as a subject of rights. In several rulings, the rationale for the common good is more directed toward preventing adultery, maintaining the family's reputation, and protecting lineage. However, the best interests of the child also require an examination of broader aspects, such as children's education, reproductive health, psychological maturity, power relations, and children's freedom from pressure. Therefore, a formally complete consideration structure is not necessarily sufficient to state that child protection has been substantially fulfilled.

3. Patterns of Legal Basis Usage

The legal basis used by judges in granting marriage dispensations generally includes Law Number 1 of 1974 on Marriage as amended by Law Number 16 of 2019, PERMA Number 5 of 2019, the Compilation of Islamic Law, as well as Islamic legal principles regarding maslahat and prevention of mafsadat. The use of these legal bases shows that the judge is trying to connect national marriage norms, judicial guidelines, and Islamic legal principles within a single consideration structure. In the context of Islamic family law, this is important because marriage dispensation cases are not only related to the legality of marriage but also to child protection and family responsibility.

Law Number 16 of 2019 serves as the starting point for consideration because it sets the minimum marriage age for men and women at 19 years. In every marriage dispensation case, the fact that the child is not yet 19 years old becomes an administrative reason for the KUA to refuse the marriage registration. The KUA's rejection letter then becomes the basis for parents or guardians to file a dispensation request with the court. Thus, the court becomes the institution authorized to assess whether deviations from the age limit can be legally justified.

---

[25] Ahmad Rofiq, *Hukum Perdata Islam Di Indonesia, Ed. Revisi* (Jakarta: Rajawali Pers, 2015), 53–57.

[26] Republik Indonesia, "Inpres Nomor 1 Tahun 1991," 1991, 1–2.

PERMA Number 5 of 2019 serves as a special guideline for judges. This PERMA not only regulates administrative requirements but also directs judges to delve deeper into the circumstances of the child and prospective partner. In several rulings that were examined, judges explicitly stated that PERMA Number 5 of 2019 requires judges to find facts about urgent reasons, consider aspects of child protection and the best interests of the child, and assess the biological, psychological, spiritual, and financial readiness of the prospective partners. This pattern is clearly seen in Decision Number 53/Pdt.P/2026/PA.IM and Decision Number 54/Pdt.P/2026/PA.IM.

In practice, Islamic legal principles are used to strengthen considerations of public interest. Several rulings state that allowing two people of different genders to associate without a marital bond can raise concerns about religious violations, ongoing adultery, lineage damage, and disruption of the family system. This consideration is then linked to the fiqh principle that preventing harm must take precedence over pursuing benefit. In the Ruling Number 66/Pdt.P/2026/PA.IM, the judge linked the granting of dispensation with the concept of maslahat in Islam, particularly the protection of religion and lineage.

The use of fiqh principles in determining marriage dispensations needs to be read critically. The principle “preventing harm takes precedence over bringing about benefit” should not only be directed at preventing adultery or family disgrace, but also used to prevent the harm that a child might experience after marriage. If a child loses the opportunity for education, experiences reproductive health risks, is in an unequal marital relationship, or marries due to family pressure, then the marriage itself can become a new source of harm. Therefore, the principles of Islamic jurisprudence need to be interpreted more comprehensively to align with child protection.

Kurniawan and Refiasari’s research on the interpretation of “urgent reasons” in the rejection of marriage dispensations shows that urgent reasons must be interpreted strictly, not merely as the family’s subjective concerns. In the case they studied, the judge rejected the application because it did not align with the principles of child protection, health, child

psychology, and *maqāṣid al-syarī'ah*.[27] This study is important as a comparison because it shows that marriage dispensations do not always have to be granted, even when the applicant uses the reason of preventing adultery. Thus, the judge should not only assess the existence or non-existence of an urgent reason but also evaluate the quality, evidence, and consequences of that reason for the child.[28]

4. Consistency in the Implementation of PERMA Number 5 of 2019

The consistency of the application of PERMA Number 5 of 2019 in granting marriage dispensation can be seen from two sides, namely formal consistency and substantive consistency. Formal consistency is evident when judges examine administrative requirements, provide advice, hear the child's testimony, review the prospective partners, present the parents, and assess written evidence. Meanwhile, substantive consistency is apparent when judges not only mention the term "best interest of the child" but also truly test whether marriage is the option that best protects the child compared to other alternatives.

From a formal aspect, several rulings by the Indramayu Religious Court indicate compliance with PERMA Number 5 of 2019. The judge has examined the administrative documents, heard the statements of the parties, provided advice, and assessed the urgent reasons. In the Ruling Number 6/Pdt.P/2026/PA.IM, the judge advised that the marriage be postponed until the child reaches adulthood and reminded the parents of their responsibility toward the continuation of the child's marriage. This shows that procedurally, the judge did not immediately grant the request, but first performed an educational and cautious function.

However, from a substantive aspect, there is still room for criticism. First, the indicators of the best interests of the child are often mentioned in the considerations, but not always elaborated in detail. For example, when a child states they are ready to marry, the judge needs to explain how that readiness is tested: whether thru free testimony, whether the child understands the risks of marriage, whether the child has received

[27] Kurniawan and Refiasari, "Penafsiran Makna 'Alasan Sangat Mendesak' Dalam Penolakan Permohonan Dispensasi Kawin."

[28] Jalaluddin Al-Suyuthi, *Al-Asybah Wa Al-Nazha'ir Fi Qawa'id Wa Furu' Fiqh Al-Syafi'iyyah* (Beirūt: Dār al-Kutub al-'Ilmiyah, 1990), 87.

information about reproductive health, and whether the child has a plan to continue their education. Without that elaboration, the statement "ready to marry" risks becoming merely a formal formula in the determination.

Second, indicators of children's participation need to be distinguished from mere attendance at the hearings. PERMA Number 5 of 2019 requires respect for children's opinions, but meaningful participation demands a safe environment for children to speak. If the child is present with their parents, prospective partner, and family, it is very likely that the child feels unable to express differing wishes. Therefore, the judge ideally should explore the child's opinion more sensitively, including ensuring whether the child truly wants to get married or feels compelled to marry due to pregnancy, shame, fear, or family pressure.[29]

Third, the indicator of being free from coercion or pressure has not always appeared strong in the formulation of considerations. In several rulings, family consent and a statement of readiness to marry are considered sufficient to prove the absence of obstacles. However, in child matters, coercion does not always take the form of a direct threat. Coercion can manifest in the form of moral pressure, shame, demands to cover up family disgrace, or the child's inability to reject the parents' decision. Therefore, judges need to explore the power dynamics behind the request, especially when the applicant is a parent and the child is in a position of economic or social dependence.

Fourth, the aspect of education still needs more serious attention. Some rulings mention the child's last education, such as elementary school, middle school, or high school, but do not always explain the fate of the child's education after marriage. In matters of marriage dispensation, education is not just an administrative data point, but a part of the child's rights that must be considered before permission is granted. Child marriage has the potential to make children drop out of school, lose better job opportunities, and enter

[29] Aliya Karima et al., "Kepentingan Terbaik Anak Pemohon Dispensasi Pernikahan Dalam Penafsiran Hukum Oleh Hakim," *Al-Syakhsiyyah: Journal of Law & Family Studies* 5, no. 2 (2023): 119–32, https://doi.org/10.21154/syakhsiyyah.v5i2.7082.

domestic responsibilities sooner. Therefore, the judge should inquire about and consider the child's educational continuation plan as part of the best interest of the child.[30]

Fifth, the health aspect is also not sufficient if it is only proven thru a pregnancy certificate. Pregnancy can indeed be an important fact, but a child's health examination should not stop at the status of being pregnant or not pregnant. Judges need to consider the child's physical readiness, the risks of early pregnancy, psychological conditions, and access to healthcare services after marriage. In the Decree Number 72/Pdt.P/2026/PA.IM, for example, the urgent reason is linked to a three-week pregnancy and concerns about actions prohibited by Islamic law. That fact is important, but an analysis of the best interests of the child demands further questions regarding the health of the mother and child and long-term protection.[31]

Sixth, alternative indicators beside marriage are the most important part to be tested. If child marriage is placed as the first option, then the marriage dispensation loses its exceptional nature. In several rulings, the judge advised postponing the marriage, but after the parties insisted on their request, the judge continued the examination and granted the application. Advice to postpone is certainly important, but alternatives to marriage should be more concrete, such as family counseling, child support, protection for pregnant children, guaranties for the continuation of education, or parental supervision. Without exploring those alternatives, the testing of the child's best interests remains not fully substantive.[32]

Imran's study on the relationship between marriage dispensation and the best interests of the child emphasizes that the court needs to balance marriage law with child protection standards so that dispensation does not become a shortcut to legalizing child

[30] Muhammad Joni and Zulchaina Z Tanamas, *Aspek Hukum Perlindungan Anak Dalam Perspektif Konvensi Hak Anak* (Bandung: Citra Aditya Bakti, 1999), 91–94.

[31] Johanna, Samsoeri, and Aida, "Analisis Penerapan Peraturan Mahkamah Agung RI (PERMA) Nomor 5 Tahun 2019 Tentang Pedoman Mengadili Permohonan Dispensasi Kawin."

[32] Mahkamah Agung, "Peraturan Mahkamah Agung Nomor 5 Tahun 2019 Tentang Pedoman Mengadili Perkara Permohonan Dispensasi Nikah."

marriage.[33] Other research also shows that the principle of the best interests of the child should be understood not just as a normative phrase, but as a standard of examination that demands proof regarding the child's condition, risks, and long-term impacts. Referring to that perspective, the determination of the Indramayu PA can be considered to have met some formal aspects of PERMA Number 5 of 2019, but it still needs to be strengthened in terms of substantive exploration of the child's condition.[34]

5. Urgent Reasons, Benefits, and the Best Interests of the Child

The judge's considerations in granting marriage dispensation at the Indramayu Religious Court show that the concept of *maṣlaḥah* plays an important role. Judges often consider that marriage needs to be conducted to avoid greater harm, especially adultery, disgrace, and damage to lineage. In the context of Islamic law, this consideration cannot be overlooked because Islamic family law indeed pays attention to the order of lineage, family honor, and the moral protection of society. However, in matters concerning children, the concept of *maṣlaḥah* must be expanded to not only protect the social structure of the family but also to protect the child as a legal subject.

The benefit in the matter of marriage dispensation should not be understood merely as a quick solution to the problem of pregnancy or child relationships. If child marriage creates new risks such as dropping out of school, poverty, economic dependency, domestic violence, or reproductive health issues, then the marriage is not automatically beneficial. Thus, the judge needs to weigh both short-term and long-term benefits simultaneously. Short-term benefits can include the resolution of social status, while long-term benefits relate to the future of the child, health, education, and the welfare of the family that will be formed.

In the *maqāṣid al-syarī'ah*, the protection of lineage cannot be separated from the protection of life and intellect. Children who are not yet physically and psychologically

[33] Imran Imran et al., "Aspects Of Justice Of Marriage Dispensation And Best Interests For Children," *Jurnal Hukum Dan Peradilan* 13 (March 31, 2024): 63, https://doi.org/10.25216/jhp.13.1.2023.63-88.

[34] Karima et al., "Kepentingan Terbaik Anak Pemohon Dispensasi Pernikahan Dalam Penafsiran Hukum Oleh Hakim."

mature should not be seen merely as future wives or husbands, but as children who still have the right to grow and develop. Therefore, the principle of *hifẓ al-nasl* needs to be understood together with *hifẓ al-nafs* and *hifẓ al-'aql*. That is, preserving lineage thru marriage should not sacrifice the child's health, the continuity of the child's education, and the child's freedom in determining their future.[3536]

From this perspective, urgent reasons and the best interests of the child must be placed in a mutually testing relationship. The urgent reason explains why the application is submitted, while the best interests of the child determine whether the reason is acceptable. If the urgent reason only comes from the family's interest in avoiding shame, then that reason may not necessarily align with the child's best interest. If the urgent reason comes from pregnancy, the judge still needs to assess whether child marriage is the safest choice for the child's health, education, and future. Thus, the best interest of the child must be the controlling standard for any urgent reason.

6. Synthesis of Findings

Based on the above description, there are several important findings. First, the urgent reasons for granting marriage dispensation by PA Indramayu are not singular. The reasons can include pregnancy, a very close relationship, having had sexual intercourse, fear of adultery, family shame, the economic readiness of the prospective husband, and family approval. Among those reasons, pregnancy seems to be the strongest one because it is supported by medical evidence and is seen as causing social consequences that must be resolved immediately.

Second, the structure of the judges' considerations tends to be uniform and shows formal compliance with PERMA Number 5 of 2019. Judges examine administrative requirements, hear statements from related parties, provide advice, and consider urgent reasons. However, formal compliance is not always synonymous with substantive

[35] Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*, 21–24.
[36] Al-Raysuni, *Imam Al-Shatibi's Theory of the Higher Objectives and Intents of Islamic Law*, 19–22.

protection. Substantive protection requires judges to more clearly explain how the best interests of the child are tested in each case.

Third, the pattern of legal basis usage shows a combination of positive law and Islamic law. The Marriage Law and Supreme Court Regulation Number 5 of 2019 serve as the normative basis, while the concepts of *maṣlaḥah* and prevention of *mafsadat* serve as the ethical-religious basis. This combination is an important characteristic in the determination of marriage dispensations in religious courts. However, the use of *maṣlaḥah* must be directed toward protecting the child as a whole, not just to resolve moral concerns or family shame.

Fourth, the consistency of implementing PERMA Number 5 of 2019 in the Indramayu Religious Court can be considered quite strong in formal aspects, but it still needs to be strengthened in substantive aspects. Indicators such as the best interests of the child, child participation, freedom from coercion, education, health, and alternatives to marriage need to be more evident in legal considerations. Thus, marriage dispensation should not be positioned as an automatic answer to pregnancy or close relationships among children, but rather as a last resort after the judge has truly ensured that the child's rights and future are protected.

Conclusion

This research shows that the urgent reasons for granting child marriage dispensation at the Indramayu Religious Court do not exist in a single form, but are composed of several typologies. The first typology is the urgent reason due to the child's or prospective wife's pregnancy. This typology appears to be the strongest reason because it is supported by medical evidence and is considered to create social and legal conditions that must be resolved immediately. The second typology is an urgent reason because the relationship between the prospective bride and groom is considered too close, difficult to separate, or they have had sexual relations even tho pregnancy has not occurred. The third typology is an urgent reason constructed thru concerns about the occurrence of adultery, sin, family

disgrace, and violations of social-religious norms. The fourth typology is an urgent reason reinforced by the readiness of the prospective bride and groom, family approval, and the prospective husband's economic capability. Thus, the urgent reasons in marriage dispensation cases at the Indramayu Religious Court are not only based on biological facts but are also shaped by social pressures, religious values, family relations, and considerations of public welfare.

The structure of the judge's considerations in granting marriage dispensation generally shows a relatively uniform pattern. The judge first examines the court's jurisdiction, the legal standing of the applicant, the rejection from the Religious Affairs Office due to the prospective bride and groom not meeting the minimum age requirement, the child's statement, the prospective partner's statement, the parents' statement, written evidence, and witnesses. After that, the judge assesses the urgent reasons, the readiness of the prospective bride and groom, and the potential benefits or harms if the marriage is approved or postponed. The pattern of legal basis usage also shows a blend of positive law and Islamic law. The Marriage Law and Supreme Court Regulation Number 5 of 2019 serve as the main normative basis, while the concepts of *maṣlaḥah*, prevention of *mafsadat*, and concern over *zinā* form the ethical-religious basis in the judges' considerations.

The consistency of the application of PERMA Number 5 of 2019 in the determination of marriage dispensations at the PA Indramayu can be considered quite strong in the formal-procedural aspect, but it still requires strengthening in the substantive aspect. Formally, the judge has examined the administrative requirements, advised the parties, heard the testimony of the child and prospective partner, and considered urgent reasons. However, substantively, the principle of the best interest of the child has not always been elaborated in depth. Several important indicators, such as meaningful child participation, freedom from family pressure, continuity of education, reproductive health conditions, and alternatives to marriage, still need to be more clearly explored in legal considerations. Therefore, the mention of the best interests of the child in the decree is not sufficient if it is not accompanied by a concrete explanation of how the child's rights and future will be protected after the dispensation is granted.

The findings of this research emphasize that marriage dispensation should be placed as a last resort, not as an automatic response to pregnancy, close relationships between children, or parents' concerns about family shame. The principle of the best interest of the child needs to be the controlling standard against any urgent reasons presented. In the perspective of Islamic family law, the consideration of *maṣlaḥah* also needs to be understood in its entirety, not only to prevent adultery or maintain family honor, but also to protect the soul, intellect, health, education, and future of the child. Thus, the practice of examining marriage dispensations needs to be continuously directed from formal compliance with PERMA Number 5 of 2019 toward more substantive child protection in religious court practices.

Bibliography

Al-Raysuni, Ahmad. *Imam Al-Shatibi's Theory of the Higher Objectives and Intents of Islamic Law*. London: International Institute of Islamic Thought, 2005.

Al-Suyuthi, Jalaluddin. *Al-Asybah Wa Al-Nazha'ir Fi Qawa'id Wa Furu' Fiqh Al-Syafi'iyyah*. Beirūt: Dār al-Kutub al-'Ilmiyah, 1990.

Auda, Jasser. *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*. London: International Institute of Islamic Thought, 2008.

"Bank Data Perkara Peradilan Agama." Accessed May 15, 2026. https://kinsatker.badilag.net/JenisPerkara/perkara_persatker_detail/362/49/2025.

Ibrahim, Johnny. *Teori Dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia Publishing, 2006.

Imran, Imran, Amran Suadi, Muh Risnain, and Erlies Nurbani. "Aspects Of Justice Of Marriage Dispensation And Best Interests For Children." *Jurnal Hukum Dan Peradilan* 13 (March 31, 2024): 63. https://doi.org/10.25216/jhp.13.1.2023.63-88.

Indonesia, Republik. "Inpres Nomor 1 Tahun 1991," 1991, 1–2.

Johanna, Danielle, Panungkelani Samsoeri, and Nurkhayati Aida. "Analisis Penerapan Peraturan Mahkamah Agung RI (PERMA) Nomor 5 Tahun 2019 Tentang Pedoman Mengadili Permohonan Dispensasi Kawin." *International NGO Forum for Indonesian Development (INFID)*, 2024, 22. https://infid.org/wp-content/uploads/2024/12/KERTAS-KERJA-KEBIJAKAN-Analisis-Penerapan-PERMA-52019-tentang-Dispensasi-Kawin.pdf.

Joni, Muhammad, and Zulchaina Z. Tanamas. *Aspek Hukum Perlindungan Anak Dalam*

Perspektif Konvensi Hak Anak. Bandung: Citra Aditya Bakti, 1999.

Joni, Muhammad, and Zulchaina Z Tanamas. *Aspek Hukum Perlindungan Anak Dalam Perspektif Konvensi Hak Anak*. Bandung: Citra Aditya Bakti, 1999.

Karima, Aliya, Nabila Luthvia Rahma, Abdurrohman Kasdi, and Labib Nubahai. "Kepentingan Terbaik Anak Pemohon Dispensasi Pernikahan Dalam Penafsiran Hukum Oleh Hakim." *Al-Syakhsiyyah: Journal of Law & Family Studies* 5, no. 2 (2023): 119–32. https://doi.org/10.21154/syakhsiyyah.v5i2.7082.

Kurniawan, Muhamad Beni, and Dinora Refiasari. "Penafsiran Makna 'Alasan Sangat Mendesak' Dalam Penolakan Permohonan Dispensasi Kawin." *Jurnal Yudisial* 15, no. 1 (2022): 83. https://doi.org/10.29123/jy.v15i1.508.

Mahkamah Agung. "Peraturan Mahkamah Agung Nomor 5 Tahun 2019 Tentang Pedoman Mengadili Perkara Permohonan Dispensasi Nikah," 2016, 1–23.

Marzuki, Peter Mahmud. *Penelitian Hukum, Ed. Revisi*. Jakarta: Kencana, 2017.

"Pusat Data Perkara Peradilan Agama," 2026. https://pusatdata.badilag.net/perkara/Pencarian_smart/direktoriDataset_jenis/362.

Rofiq, Ahmad. *Hukum Perdata Islam Di Indonesia, Ed. Revisi*. Jakarta: Rajawali Pers, 2015.

"SIPP." Accessed May 15, 2026. https://sipp.pa-indramayu.go.id/index.php/detil_perkara.

Tasya, Allika Fadia, and Atik Winanti. "Dispensasi Perkawinan Anak Setelah Adanya Perma Nomor 5 Tahun 2019." *Wajah Hukum* 5, no. 1 (2021): 241. https://doi.org/10.33087/wjh.v5i1.333.

Undang-undang Republik Indonesia No 16. "Undang-Undang Republik Indonesia No 16 Tahun 2019 Tentang Perubahan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan." *Undang-Undang Republik Indonesia*, no. 006265 (2019): 2–6. https://peraturan.bpk.go.id/Home/Details/122740/uu-no-16-tahun-2019.